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REPORT
No. 358

AUTHORIZING ONE ADDITIONAL ASSISTANT SECRETARY OF STATE, AND FOR OTHER PURPOSES

JULY 15, 1963.—Ordered to be printed

Mr. FULBRIGHT, from the Committee on Foreign Relations, submitted
the following

REPORT

[To accompany S. 1512]

The Committee on Foreign Relations, having had under consideration S. 1512, a bill to authorize one additional Assistant Secretary of State, and for other purposes, hereby report the same favorably with amendments and recommend that, as amended, it be passed by the Senate:

PURPOSE OF BILL

The purpose of S. 1512 as reported by the committee is (1) to authorize one additional Assistant Secretary of State and (2) to authorize retired Foreign Service officers, under closely restricted conditions, to accept employment from foreign governments.

COMMITTEE ACTION

S. 1512 was introduced by Senator Fulbright (by request) on May 13, 1963. On June 25, the Committee on Foreign Relations received testimony in public session in support of the bill from Mr. William J. Crockett, Deputy Under Secretary of State for Administration. The committee considered the bill in executive session on June 27 and agreed to report it favorably, with amendments, to the Senate.

EXPLANATION OF BILL

Section 1 of S. 1512 would authorize, subject to Senate confirmation, the appointment of one additional Assistant Secretary of State. This position would be filled by the Director of the Bureau of Intelligence and Research, whose functions, the committee believes, are as important as those of the geographic and functional bureaus in the Depart-

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ment of State which are currently headed by Assistant Secretaries of State. The creation of this position does not involve any additional cost to the U.S. Government.

--Section 2 of the bill would authorize retired Foreign Service officers to accept, with the personal authorization in each case of the Secretary of State, nonpolitical employment with foreign governments. Under article I, section 9, of the Constitution, persons holding offices of profit or trust for the United States may not accept any present, emolument, office, or title from any government without the consent of Congress. The Department of State believes that retired Foreign Service officers, since they may be recalled to duty, continue to hold an office of trust and thus come under this restriction.

The pending legislation is designed primarily to enable newly independent nations, if they so desire, to employ retired Foreign Service officers in order to obtain their advice and counsel in setting up foreign service systems of their own and becoming familiar with international practices and protocol. The committee thinks such employment would be beneficial to the newly independent nations. The committee is of the opinion, however, that in no case should this authority be used to permit a retired Foreign Service officer to engage in political activities on behalf of a foreign government. Moreover, the committee felt that because of the type of employment contemplated, each case should be reviewed at the highest level in the Department of State to be sure that it is not inconsistent with the national interest. Accordingly, the committee tightened the provisions of section 2 of S. 1512 to provide that retired Foreign Service officers could accept only nonpolitical employment with a foreign government and that such employment must have the personal approval of the Secretary of State.

In addition, the committee amended section 2 of the bill to provide--

that the Secretary shall not grant such authorization within two years of the officer's retirement, and that the Secretary shall report each such authorization to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

This is designed to avoid conflict-of-interest situations, which the committee believes is desirable. The reporting requirement will insure that the appropriate committees in the Congress are informed in each case in which the Secretary of State approves a retired Foreign Service officer's employment with a foreign government.

As originally drafted by the Department of State, section 3 of S. 1512 would have authorized increased retirement benefits to three Foreign Service officers had they retired prior to June 20, 1963. However, because of some confusion with respect to this date, the committee agreed to delete section 3 of the bill with the understanding that the Department might submit separate legislation on the subject at a later date.

A more detailed explanation of S. 1512 is contained in a letter and memorandum which the Secretary of State transmitted to the Vice President, and which are appended hereto. There is also appended a copy of a letter from the Department of State which was submitted in response to questions raised during the committee's hearing on the bill.

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CONCLUSION

The Committee on Foreign Relations gave careful consideration to S. 1512 and is of the opinion that the bill, as reported, is in the national interest. The committee recommends, therefore, that the Senate give its approval to S. 1512, as amended.

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APPENDIX

APRIL 18, 1963.

HON. LYNDON B. JOHNSON,
President of the Senate.

DEAR MR. VICE PRESIDENT: There is transmitted herewith for consideration by the Congress a proposed bill designed to achieve the following objectives:

1. To authorize, subject to Senate confirmation, one additional Assistant Secretary of State;
2. To authorize retired Foreign Service officers to act as advisers to foreign governments pursuant to approval of the Secretary of State;
3. To provide for increased retirement benefits for a maximum of three Foreign Service officers to which they would have otherwise been entitled had they retired prior to June 1, 1962.

Section 1 would authorize an additional Assistant Secretary of State position in the Department of State which, it is contemplated, will be used for the Director of the Bureau of Intelligence and Research. The importance and scope of the position fully justifies this action.

The Bureau of Intelligence and Research has the dual function of meeting the requirements of the coordinated intelligence community under intelligence directives issued by the National Security Council and also meeting the Department's own research and intelligence needs. In a rapidly changing world it is essential for sound policy-making that adequate information be available regarding the current situation and the probable future consequences of potential alternative decisions. It is important to look ahead, to seek to anticipate problems or opportunities for American foreign policy, and to apply specialized skills to the task of improving the basic assumptions on which policy rests.

For these reasons, the functions of the Bureau of Intelligence and Research are equivalent in importance to those of the geographic and functional bureaus, each of which is currently headed by an Assistant Secretary. The enactment of the proposed bill would also enable the Department to recognize more fully the importance of the Department's intelligence and intelligence research activities.

Section 2 would authorize retired Foreign Service officers to accept, with the specific authorization in each case of the Secretary of State, employment as advisers or consultants to foreign governments. This section is designed primarily to enable certain newly independent countries to obtain advice and counsel in establishing embassies and setting up foreign service systems and becoming familiar with the international practices of protocol. Recently several nations, especially newly independent African nations, have approached the Department requesting the services of retired Foreign Service officers to act as advisers in establishing embassies in the United States and throughout the world, and to provide assistance in training personnel

in protocol and formalities of diplomatic relations. At the present time, the Department has been unable to comply with such requests due to the provision of the Constitution prohibiting persons holding offices of profit or trust of the United States from accepting, without the consent of Congress, any office of any foreign state. Because retired Foreign Service officers are subject to recall by the Secretary of State whenever he determines such recall is in the public interest, they have been considered as subject to this prohibition.

The administration believes that it would be in the interest of the United States if the Secretary of State were given the discretionary power here sought to authorize certain retired Foreign Service officers to act as advisers to foreign governments.

Section 3 would provide authority for the Secretary of State to extend the benefits provided in the subsection (a) of section 1 of Public Law 86-612, approved July 12, 1960. The benefits conferred by this section expired on June 30, 1962. The provision of this proposed section would extend those benefits to not to exceed three officers of the Foreign Service to June 30, 1963, when it is determined by the Secretary of State such action is in the public interest.

The voluntary retirement of participants in the Foreign Service retirement and disability system is dependent upon the approval of the Secretary of State. In most instances such approval is granted when requested by those Foreign Service officers who have reached 50 years of age and have rendered 20 years of service. There are presently in the Foreign Service a few high-ranking career officers who are nearing mandatory retirement age but who have remained in the Service at the request of the Secretary of State because of their unique qualifications and background of experience. By doing so, they have forfeited the additional retirement benefits for which they were eligible prior to June 30, 1962. This section is believed to be in the interest of the equitable treatment for those Foreign Service officers, not to exceed three in number, who have remained on duty at the request of the Secretary of State. Under this section the Secretary could, in his discretion, extend for a period not to exceed 12 months, benefits of Public Law 86-612 to not more than three Foreign Service officers.

The Department has been informed by the Bureau of the Budget that there would be no objection, from the standpoint of the administration's program, to the presentation of this draft legislation to the Congress for its consideration.

I trust that this proposed bill will receive such consideration as the Congress may deem appropriate.

Sincerely yours,

DEAN RUSK.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF PROPOSED LEGISLATION

Section 1 would add an Assistant Secretary position in the Department of State which it is contemplated will be used for the Director of the Bureau of Intelligence and Research. The importance and scope of the job and the need to maintain the Department's position in the intelligence community fully justifies this action.

The Bureau of Intelligence and Research has the dual function of meeting the requirements of the coordinated intelligence community

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under intelligence directives issued by the National Security Council and also meeting the Department's own research and intelligence needs. In a rapidly changing world, it is essential for sound policymaking that adequate information be available regarding the current situation and the probable future consequence of potential alternative decisions. It is important to attempt to look ahead, to try to anticipate problems or opportunities for American foreign policy and it is also necessary to apply specialized skills to the task of improving the basic assumption on which policy rests.

For these reasons the functions of the Bureau of Intelligence and Research are equivalent in importance to those of the geographic and functional bureaus currently headed by an Assistant Secretary.

The enactment of the proposed bill would enable the Department to give more adequate attention to the quality of research activities and would insure consideration of research information at a high level.

Section 2 would authorize retired Foreign Service officers to accept, with the prior authorization of the Secretary of State, employment as advisers or consultants to foreign governments. The Department believes this provision is desirable. It will enable certain newly independent countries to secure advice and counsel in establishing embassies and foreign service systems and becoming familiar with practices of protocol. Several nations, especially in Africa, have approached the Department requesting the services of retired Foreign Service officers to act as advisers in establishing embassies in the United States and throughout the world and to provide assistance in training personnel in protocol and the formalities of diplomatic relations. At the present time, the Department has been unable to comply with such requests due to the provision of the Constitution prohibiting persons holding offices of profit or trust of the United States from accepting, without the consent of Congress, any office of any foreign state. Because retired Foreign Service officers are subject to recall by the Secretary of State whenever he determines such recall is in the public interest, they have been considered as subject to this prohibition.

Section 3 would provide authority for the Secretary of State to extend the benefits provided in subsection (a) of section 1 of Public Law 86-612, approved July 12, 1960, to June 30, 1963, to not exceed three officers of the Foreign Service, when he determines it to be in the public interest to do so. Public Law 86-612 provided that the annuity of any participant in the Foreign Service retirement and disability system entitled to receive an annuity on or before June 30, 1962, should be increased by 10 percent.

Section 636 of the Foreign Service Act of 1946, as amended, provides that any participant in the Foreign Service retirement and disability system who is at least 50 years of age and has rendered 20 years of service may, on his own application with the consent of the Secretary of State, be retired from the Service and receive an immediate annuity. A number of participants in the Foreign Service retirement and disability system have taken advantage of this benefit which provided them with a substantial increase in annuity if their annuity began before June 30, 1962. The voluntary retirement of these participants was dependent upon the approval of the Secretary. In most instances such approval was granted. There are, however, in the Service a few high-ranking career officers who, nearing mandatory retirement

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age, elected to apply for voluntary retirement because of the benefits accruing to them under the provision of Public Law 86-612 whose services were needed beyond June 30, 1962. The Secretary was reluctant to disapprove their applications for voluntary retirement in view of the financial hardship this would impose upon them by denying them the annuity benefits of Public Law 86-612. However, their continued service in the key positions to which they are assigned (chief of mission and other high-level positions) was in the public interest. This proposed amendment will enable the Secretary to extend, in his discretion, the benefits of Public Law 86-612 to not to exceed three officers, if they retire before June 30, 1963.

Estimated cost of proposed draft bill

<i>Item</i>	<i>1st year cost</i>
1. Additional Assistant Secretary for Intelligence and Research-----	0
Comment: Appointment of the Director of Intelligence and Research as an Assistant Secretary will involve no cost since his salary is already the same as that of an Assistant Secretary.	
2. Foreign employment of retired Foreign Service officers-----	0
Comment: This proposal does not involve any cost.	
3. Adjustments and annuities under the Foreign Service retirement and disability system-----	\$116, 400
Comment: This estimate is based on the annuity increase each of 3 officers would receive under the bill, projected for 20 years:	
\$145×240 months-----	\$34, 800
\$164×240 months-----	39, 360
\$176×240 months-----	42, 240
	<hr/>
	116, 400
Net cost-----	<hr/> 16, 400

JULY 5, 1963.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate.

DEAR MR. CHAIRMAN: When Deputy Under Secretary of State William J. Crockett and Mr. Harvey Winter, of the Office of Business Practices, Bureau of Economic Affairs, appeared before the Committee on Foreign Relations on June 25, various information was to be submitted for the record.

(1) Whether a retired Foreign Service officer working for a foreign government would be required to register under the Foreign Agents Registration Act (question raised by the chairman, p. 4). Since the Foreign Agents Registration Act of 1938, as amended, is administered by the Department of Justice, the Department of State cannot rule on its application. In general it can be stated that a retired Foreign Service officer working for a foreign government in the United States would be required to register under the Foreign Agents Registration Act and that such an officer working for a foreign government abroad would not be required to register under that act. There are exceptions in both instances. The attached pamphlet outlining rules and regulations prescribed by the Attorney General for the Foreign Agents Registration Act of 1938, as amended, may be useful to the committee.

(2) The number of requests received from other governments for the services of retired Foreign Service officers (question raised by the chairman, p. 6). The bulk of the requests made to the Department concerning employment of retired Foreign Service officers have

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been from newly independent African Republics. The actual number of such requests, all of which have been informal ones, has not been recorded since due to the constitutional prohibition no affirmative response could be made.

(3) Confirmation of the \$116,400 estimate for 20 years retirement bonus for the three ambassadors (raised by the chairman, p. 8). The Department's estimate of \$116,400 as the projected 20-year cost of the annuity benefits to the three officers who could benefit from section 3 of the bill is confirmed as being currently reasonable.

(4) Information on what kind of employment a retired Foreign Service Officer may now accept (raised by Senator Aiken, p. 11). A retired Foreign Service officer may accept any private employment or any employment with Federal or State Governments in the United States.

Under the Constitution, persons holding office of trust for the United States may not accept any present, emolument, office, or title from any government without the consent of Congress. The Department believes that the retired Foreign Service officers, since they may be recalled to duty, continue to hold office and thus come under this restriction.

The proposed legislation would provide congressional consent to the employment of a retired Foreign Service officer by a foreign government when the Secretary authorized such employment.

(5) Whether the State Department has the authority to detail a Foreign Service officer to work for a foreign government (raised by the chairman, p. 22). Section 575 of the Foreign Service Act of 1946, as amended, authorizes the Secretary, in his discretion, to assign or detail an officer or employee of the Service for temporary service to or in cooperation with the government of another country in accordance with the appropriate provisions of titles III and IX of Public Law 402, 80th Congress (62 Stat. 7 and 13; 22 U.S.C. 1451-1453, 1478, and 1479).

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If the Department can be of any further assistance, please do not hesitate to let me know.

Sincerely yours,

FREDERICK G. DUTTON,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Text of Public Law 73, 81st Congress (S. 1704), 63 Stat. 111, approved May 26, 1949, as amended by Public Law 250, 84th Congress (S. 2237), 69 Stat. 536, approved August 5, 1955, Public Law 85-477 (H.R. 12181), 72 Stat. 274, approved June 30, 1958, Public Law 85-524 (S. 1832), 72 Stat. 363, approved July 18, 1958, and Public Law 86-117 (S. 1877), 73 Stat. 265, approved July 30, 1959.

AN ACT To strengthen and improve the organization and administration of the Department of State and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of State in addition to the Secretary of State an Under Secretary of State, two Deputy Under Secretaries of State, and **[eleven]** *twelve* Assistant Secretaries of State.

SEC. 2. (a) The Secretary of State and the officers referred to in section 1 of this Act, as amended, shall be appointed by the President, by and with the advice and consent of the Senate. The Counselor of the Department of State and the Legal Adviser who are required to be appointed by the President, by and with the advice and consent of the Senate, shall rank equally with and shall receive the same salary as the Assistant Secretaries of State. Any such officer holding office at the time the provisions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended. Unless otherwise provided for by law, the rate of basic compensation of the Deputy Under Secretaries of State shall be the same as that of Assistant Secretaries of State.

(b) There is established in the Department of State an Office which shall be entitled as designated by the President, either Under Secretary of State for Political Affairs or Under Secretary of State for Economic Affairs, which Office shall be filled by appointment by the President, by and with the advice and consent of the Senate. The incumbent of such Office shall receive compensation at the rate of \$22,000 a year and shall perform such duties as may be prescribed by the Secretary of State. Any provision of law vesting authority in the "Under Secretary of State for Economic Affairs", or any other reference with respect thereto, is hereby amended to vest such authority in the Secretary of State.

SEC. 3. The Secretary of State, or such person or persons designated by him, notwithstanding the provisions of the Foreign Service Act of 1946 (60 Stat. 999) or any other law, except where authority is inherent in or vested in the President of the United States, shall administer, coordinate, and direct the Foreign Service of the United States and the personnel of the State Department. Any provisions in the Foreign Service Act of 1946, or in any other law, vesting au-

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thority in the "Assistant Secretary of State for Administration", the "Assistant Secretary of State in Charge of the Administration of the Department", the "Director General", or any other reference with respect thereto, are hereby amended to vest such authority in the Secretary of State.

SEC. 4. The Secretary of State may promulgate such rules and regulations as may be necessary to carry out the functions now or hereafter vested in the Secretary of State or the Department of State, and he may delegate authority to perform any of such functions including if he shall so specify the authority successively to redelegate any of such functions, to officers and employees under his direction and supervision.

SEC. 5. The following statutes or parts of statutes are hereby repealed:

Section 200 of the Revised Statutes, as amended and amplified by the Acts authorizing the establishment of additional Assistant Secretaries of State, including section 22 of the Act of May 24, 1924 (ch. 182, and the Act of December 8, 1944, R.S. 200; 43 Stat. 146; 58 Stat. 798; 5 U.S.C. 152, as amended by Public Law 767, Eightieth Congress).

Section 202 of the Foreign Service Act of 1946 (60 Stat. 1000) and any other reference in such Act to the "Deputy Director General".

Section 1041 of the Foreign Service Act of 1946 (60 Stat. 1032).

Federal Executive Pay Act of 1956

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SEC. 106. (a) The annual rate of basic compensation of each of the offices or positions listed in this subsection shall be \$20,000.

(1) Administrator, Bureau of Security and Consular Affairs, Department of State.

(2) Administrator of Civil Aeronautics.

(3) Administrator, Commodity Stabilization Service.

(4) Administrator of the Rural Electrification Administration.

(5) Repealed by Public Law 87-367, 75 Stat. 793.

(6) Administrator of the Saint Lawrence Seaway Development Corporation.

(7) Administrator, Wage and Hour and Public Contracts Divisions, Department of Labor.

(8) Archivist of the United States.

(9) Assistant Directors of the Bureau of the Budget (2).

(10) Assistant Postmasters General (5).

(11) Assistant Secretaries of Agriculture (3).

(12) Assistant Secretaries of Commerce (3).

(13) Assistant Secretaries of Defense (9).

(14) Assistant Secretaries of Health, Education, and Welfare (2).

(15) Assistant Secretaries of the Interior (3).

(16) Assistant Secretaries of Labor (3).

(17) Assistant Secretaries of State **[(11)]** (12).

(18) Assistant Secretaries of the Treasury (3).

(19) Repealed by Public Law 85-861, 72 Stat. 1570.

(20) Repealed by Public Law 85-861, 72 Stat. 1570.

(21) Repealed by Public Law 85-861, 72 Stat. 1570.

(22) Associate Director of the Federal Bureau of Investigation.

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- (23) Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense.
- (24) Commissioner, Community Facilities, Housing and Home Finance Agency.
- (25) Commissioner, Federal Housing Administration.
- (26) Commissioner, Public Housing Administration.
- (27) Commissioner, Urban Renewal Administration.
- (28) Counselor of the Department of State.
- (29) Deputy Administrator of the Housing and Home Finance Agency.
- (30) Deputy Administrator of General Services.
- (31) Director of the Administrative Office of the United States Courts.
- (32) Director of the Bureau of Prisons.
- (33) Director of the National Advisory Committee for Aeronautics.
- (34) Director of the National Science Foundation.
- (35) Director of Selective Service.
- (36) Fiscal Assistant Secretary of the Treasury.
- (37) General Counsel of the National Labor Relations Board.
- (38) Librarian of Congress.
- (39) President of the Federal National Mortgage Association.
- (40) Public Printer.
- (41) Special Assistant to the Secretary (Health and Medical Affairs), Department of Health, Education, and Welfare.
- (42) Repealed by Public Law 85-861, 72 Stat. 1570.
- (43) Repealed by Public Law 85-861, 72 Stat. 1570.
- (44) Repealed by Public Law 85-861, 72 Stat. 1570.
- (45) Members of boards and commissions (excluding chairmen):
 - Civil Aeronautics Board (4).
 - United States Civil Service Commission (2).
 - Council of Economic Advisers (2).
 - Board of Directors of the Export-Import Bank of Washington (3).
 - Federal Communications Commission (6).
 - Federal Deposit Insurance Corporation (1).
 - Board of Governors of the Federal Reserve System (6).
 - Federal Maritime Board (2).
 - Foreign Claims Settlement Commission of the United States (2).
 - Federal Power Commission (4).
 - Federal Trade Commission (4).
 - Federal Home Loan Bank Board (2).
 - Interstate Commerce Commission (10).
 - National Labor Relations Board (4).
 - National Mediation Board (2).
 - Railroad Retirement Board (2).
 - Renegotiation Board (4).
 - Securities and Exchange Commission (4).
 - Subversive Activities Control Board (4).
 - Board of Directors of the Tennessee Valley Authority (2).
 - United States Tariff Commission (5).
- (46) Commissioner of Social Security.
- (47) Commissioner of Education.
- (48) Legal adviser, solicitor, or general counsel of an executive department-(excluding the Department of Justice).

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- (49) General Counsel of the General Accounting Office.
- (50) General Counsel, United States Arms Control and Disarmament Agency.
- (51) Public Affairs Adviser, United States Arms Control and Disarmament Agency.

Foreign Service Act of 1946, as Amended

Text of Public Law 724, 79th Cong. [H.R. 6967], 60 Stat. 999, approved August 13, 1946; as amended by P.L. 73, 81st Cong. [S. 1704], 63 Stat. 111, May 26, 1949; P.L. 160, 81st Cong. [H.R. 5100], 63 Stat. 407, July 6, 1949; P.L. 759, 83d Cong. [H.R. 9910], 68 Stat. 1051, August 31, 1954; P.L. 22, 84th Cong. [H.R. 4941], 69 Stat. 24, April 5, 1955; P.L. 250, 84th Cong. [S. 2237], 69 Stat. 536, August 5, 1955; P.L. 726, 84th Cong. [H.R. 11356], 70 Stat. 555, July 18, 1956; P.L. 828, 84th Cong. [S. 3481], 70 Stat. 704, July 28, 1956; P.L. 85-462 [S. 734], 72 Stat. 203, June 20, 1958; P.L. 85-477 [H.R. 12181], 72 Stat. 261, June 30, 1958; P.L. 86-723 [S. 2633], 74 Stat. 831, September 8, 1960; P.L. 87-195 [S. 1983], 75 Stat. 424, September 4, 1961; and P.L. 87-793 [H.R. 7927], 76 Stat. 832, October 11, 1962.

AN ACT To improve, strengthen, and expand the Foreign Service of the United States and to consolidate and revise the laws relating to its administration.

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AGAINST ACCEPTING PRESENTS

SEC. 1002. An officer or employee of the Service shall not ask or, without the consent of the Congress, receive, for himself or any other person, any present, emolument, pecuniary favor, office, or title from any foreign government. A chief of mission or other principal officer may, however, under such regulations as the President may prescribe, accept gifts made to the United States, or to any political subdivision thereof by the government to which he is accredited or from which he holds an exequatur^[.]: *Provided, That a retired officer of the Service may, with the personal authorization of the Secretary, accept an offer of nonpolitical employment made by a foreign government; and provided further that the Secretary shall not grant such authorization within two years of the officer's retirement, and that the Secretary shall report each such authorization to the Committee on Foreign Relations of the Senate and to the Committee on Foreign Affairs of the House of Representatives.*

